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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

WAYNE CLARK,
Plaintiff,
v.

HIDDEN VALLEY LAKE ASSOCIATION,
Defendant.

Case No. 16-cv-02009-SI

VERDICT FORM

CLAIM 1(a)

PRIVACY—INTRUSION INTO PRIVATE AFFAIRS

We answer the questions submitted to us as follows:

1. Did Wayne Clark have a reasonable expectation of privacy in the terms of his employment and his work performance with Hidden Valley Lake Association?

☒ Yes ☐ No

If your answer to question 1 is yes, then answer question 2. If you answered no, stop here, and answer no further questions on this claim.

2. Did Hidden Valley Lake Association, through Cindy Spears, intentionally intrude in the terms of his employment and his work performance with Hidden Valley Lake Association?

☒ Yes ☐ No

If your answer to question 2 is yes, then answer question 3. If you answered no, stop here, and answer no further questions on this claim.

3. Would Hidden Valley Lake Association's intrusion, through Cindy Spears, be highly offensive to a reasonable person?

☒ Yes ☐ No

If your answer to question 3 is yes, then answer question 4. If you answered no, stop here, and answer no further questions on this claim.

4. Was Hidden Valley Lake Association's conduct, through Cindy Spears, a substantial factor in causing harm to Wayne Clark?

☒ Yes ☐ No

CLAIM 1(b)**PRIVACY—PUBLIC DISCLOSURE OF PRIVATE FACTS**

We answer the questions submitted to us as follows:

1. Did Hidden Valley Lake Association, through Cindy Spears, publicize private information concerning Wayne Clark?

☒ Yes ☐ No

If your answer to question 1 is yes, then answer question 2. If you answered no, stop here, and answer no further questions on this claim.

2. Would a reasonable person in Wayne Clark's position consider the publicity highly offensive?

☒ Yes ☐ No

If your answer to question 2 is yes, then answer question 3. If you answered no, stop here, and answer no further questions on this claim.

3. Did Hidden Valley Lake Association, through Cindy Spears, know or act with reckless disregard of the fact that a reasonable person in Wayne Clark's position would consider the publicity highly offensive?

☒ Yes ☐ No

If your answer to question 3 is yes, then answer question 4. If you answered no, stop here, and answer no further questions on this claim.

4. Was the private information of legitimate public concern, or did it have a substantial connection to a matter of legitimate public concern?

☐ Yes ☒ No

If your answer to question 4 is no, then answer question 5. If you answered yes, stop here, and answer no further questions on this claim.

5. Was Hidden Valley Lake Association's conduct, through Cindy Spears, a substantial factor in causing harm to Wayne Clark?

☒ Yes ☐ No

CLAIM 1(c)

PRIVACY—FALSE LIGHT

We answer the questions submitted to us as follows:

1. Did Hidden Valley Lake Association, through Cindy Spears, publicize information or material that showed Wayne Clark in a false light?

X Yes ___ No

If your answer to question 1 is yes, then answer question 2. If you answered no, stop here, and answer no further questions on this claim.

2. Would a reasonable person in Wayne Clark's position consider the false light created by the publication to be highly offensive?

X Yes ___ No

If your answer to question 2 is yes, then answer question 3. If you answered no, stop here, and answer no further questions on this claim.

3. Did Hidden Valley Lake Association, through Cindy Spears, either know the publication would create a false impression about Wayne Clark or act with reckless disregard for the truth?

X Yes ___ No

If your answer to question 3 is yes, then answer question 4. If you answered no, stop here, and answer no further questions on this claim.

4. Was Hidden Valley Lake Association's conduct, through Cindy Spears, a substantial factor in causing harm to Wayne Clark?

X Yes ___ No

CLAIM 2(a)**DEFAMATION PER SE (PRIVATE FIGURE AND PRIVATE CONCERN)**

We answer the questions submitted to us as follows:

1. Did Hidden Valley Lake Association, through Cindy Spears, make the following statements to persons other than Wayne Clark?

a. That Wayne Clark had pornography including child pornography on his office computer.

☒ Yes ☐ No

b. That Wayne Clark embezzled from the Association.

☒ Yes ☐ No

c. That Wayne Clark made fraudulent use of the credit card issued to him by Hidden Valley Lake Association.

☒ Yes ☐ No

d. That Wayne Clark used deceptive accounting practices.

☒ Yes ☐ No

If your answer to question 1(a), 1(b), 1(c) or 1(d) is yes, then answer question 2. If you answered no to each subpart, stop here, and answer no further questions on this claim.

2. Did the people to whom the statements were made reasonably understand that the statements were about Wayne Clark?

☒ Yes ☐ No

If your answer to question 2 is yes, then answer question 3. If you answered no, stop here, and answer no further questions on this claim.

3. Did these people reasonably understand the statements to mean that Wayne Clark had pornography including child pornography on his office computer, that Wayne Clark embezzled from the Association, that Wayne Clark made fraudulent use of the credit card issued to him by Hidden Valley Lake Association, or that Wayne Clark used deceptive accounting practices?

☒ Yes ☐ No

1 If your answer to question 3 is yes, then answer question 4. If you answered no, stop here,
2 and answer no further questions on this claim.

3 4. Were the statements false?

4 ☒ Yes ☐ No

5 If your answer to question 4 is yes, then answer question 5. If you answered no, stop here,
6 and answer no further questions on this claim.

7 5. Did Hidden Valley Lake Association, through Cindy Spears, fail to use reasonable
8 care to determine the truth or falsity of the statements?

9 ☒ Yes ☐ No

10 If your answer to question 5 is yes, then answer questions 6 and 7. If you answered no,
11 stop here, and answer no further questions on this claim.

12 6. Was Hidden Valley Lake Association's conduct a substantial factor in causing Wayne
13 Clark actual harm?

14 ☒ Yes ☐ No

15 7. Did Wayne Clark prove by clear and convincing evidence that Hidden Valley Lake
16 Association, through Cindy Spears, acted with malice, oppression, or fraud?

17 ☒ Yes ☐ No

CLAIM 2(b)**DEFAMATION PER SE (PRIVATE FIGURE AND PUBLIC CONCERN)**

We answer the questions submitted to us as follows:

1. Did Hidden Valley Lake Association, through Cindy Spears, make the following statement to persons other than Wayne Clark?

a. That Wayne Clark mismanaged the financial and other assets of the Golf operation.

☒ Yes ☐ No

If your answer to question 1(a) is yes, then answer question 2. If you answered no, stop here, and answer no further questions on this claim.

2. Did the people to whom the statement was made reasonably understand that the statement was about Wayne Clark?

☒ Yes ☐ No

If your answer to question 2 is yes, then answer question 3. If you answered no, stop here, and answer no further questions on this claim.

3. Did these people reasonably understand the statement to mean that Wayne Clark had mismanaged the financial and other assets of the Golf operation?

☒ Yes ☐ No

If your answer to question 3 is yes, then answer question 4. If you answered no, stop here, and answer no further questions on this claim.

4. Was the statement false?

☒ Yes ☐ No

If your answer to question 4 is yes, then answer question 5. If you answered no, stop here, and answer no further questions on this claim.

5. Did Hidden Valley Lake Association, through Cindy Spears, fail to use reasonable care to determine the truth or falsity of the statement?

☒ Yes ☐ No

If your answer to question 5 is yes, then answer questions 6 and 7. If you answered no, stop here, and answer no further questions on this claim.

1 6. Was Hidden Valley Lake Association's conduct, through Cindy Spears, a
2 substantial factor in causing Wayne Clark actual harm?

3 X Yes ___ No

4 7. Did Wayne Clark prove by clear and convincing evidence that Hidden Valley Lake
5 Association, through Cindy Spears, knew the statement was false or had serious doubts about the
6 truth of the statement?

7 X Yes ___ No

8 If your answer to question 7 is yes, then answer question 8. If you answered no, stop here,
9 and answer no further questions on this claim.

10 8. Did Wayne Clark prove by clear and convincing evidence that Hidden Valley Lake
11 Association, through Cindy Spears, acted with malice, oppression, or fraud?

12 X Yes ___ No

United States District Court
Northern District of California

CLAIM 2(c)**DEFAMATION PER QUOD (PRIVATE FIGURE – PRIVATE CONCERN)**

We answer the questions submitted to us as follows:

1. Did Hidden Valley Lake Association, through Cindy Spears, make the following statements to persons other than Wayne Clark?

a. “the employer does not allow you to fill up your company owned and maintained computer with porn, and your desk with booze. But the problem is that the police have to be able to determine that the very young looking girls are actually under age to bring charges.”

☒ Yes ☐ No

b. “Were there circle **** parties going on in that office? It would seem very likely that there probably were. There are people who know and participated, they have not come forward publicly at this time.”

☒ Yes ☐ No

c. “But, they got to go along on the Pizza Parties etc. There are people here who sat in somebody’s office, enjoyed a bit of Naughty little girl action, had some booze and I am really not sure what the toilet paper is for. I am thinking it is a guy thing.”

☒ Yes ☐ No

d. “Just imagine, that the computer is examined and is found to be filled with young nubile naughty stuff of indeterminate age. In that case normally law enforcement is called in to determine if there are a bunch of felonies on HVLA’s computer. Let’s further imagine that there were open bottled of booze in the desk alone with a roll of toilet paper.”

☒ Yes ☐ No

e. “Staff abuse of credit cards”

☒ Yes ☐ No

f. “Under-performing managers”

☒ Yes ☐ No

1 g. "Used deceptive fiscal gimmicks to make Golf Ops. Look better"

2 X Yes ____ No

3 h. "Used deceptive double-talk to enhance the appearance of his performance."

4 X Yes ____ No

5 If your answer to question 1(a), 1(b), 1(c), 1(d), 1(e), 1(f), 1(g) or 1(h) is yes, then answer
6 question 2. If you answered no to each subpart, stop here, and answer no further questions on this
7 claim.

8 2. Did the people to whom the statements were made reasonably understand that the
9 statements were about Wayne Clark?

10 X Yes ____ No

11 If your answer to question 2 is yes, then answer question 3. If you answered no, stop here,
12 and answer no further questions on this claim.

13 3. Did Hidden Valley Lake Association, through Cindy Spears, fail to use reasonable
14 care to determine the truth or falsity of the statements?

15 X Yes ____ No

16 If your answer to question 3 is yes, then answer question 4. If you answered no, stop here,
17 and answer no further questions on this claim.

18 4. Did the statements tend to injure Wayne Clark in his occupation?

19 X Yes ____ No

20 If your answer to question 4 is yes, then answer question 5. If you answered no, stop here,
21 and answer no further questions on this claim.

22 5. Did Wayne Clark suffer harm to his business, profession, or occupation?

23 X Yes ____ No

24 If your answer to question 5 is yes, then answer question 6. If you answered no, stop here,
25 and answer no further questions on this claim.

26 6. Were the statements a substantial factor in causing Wayne Clark's harm?

27 X Yes ____ No

28 If your answer to question 6 is yes, then answer question 7. If you answered no, stop here,

1 and answer no further questions on this claim.

2 7. Did Wayne Clark prove by clear and convincing evidence that Hidden Valley Lake
3 Association, through Cindy Spears, acted with malice, oppression, or fraud?

4 X Yes No

CLAIM 3

NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS

We answer the questions submitted to us as follows:

1. Was Hidden Valley Lake Association, through Cindy Spears, negligent?

X Yes ____ No

If your answer to question 1 is yes, then answer question 2. If you answered no, stop here, and answer no further questions on this claim.

2. Did Wayne Clark suffer serious emotional distress?

X Yes ____ No

If your answer to question 2 is yes, then answer question 3. If you answered no, stop here, and answer no further questions on this claim.

3. Was Hidden Valley Lake Association's negligence, through Cindy Spears, a substantial factor in causing Wayne Clark's serious emotional distress?

X Yes ____ No

CLAIM 4**INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

We answer the questions submitted to us as follows:

1. Was Hidden Valley Lake Association, through Cindy Spears, exercising its legal rights or protecting its economic interests?

____ Yes X No

If your answer to question 1 is yes, then answer question 2. If you answered no, skip questions 2 and 3, and answer question 4.

2. Was Hidden Valley Lake Association's conduct, through Cindy Spears, lawful and consistent with community standards?

____ Yes ____ No

If your answer to question 2 is yes, then answer question 3. If you answered no, skip question 3, and answer question 4.

3. Did Hidden Valley Lake Association, through Cindy Spears, have a good-faith belief that it had a legal right to engage in the conduct?

____ Yes ____ No

If your answer to question 3 is no, then answer question 4. If you answered yes, stop here, and answer no further questions on this claim.

4. Was Hidden Valley Lake Association's conduct, through Cindy Spears, outrageous?

X Yes ____ No

If your answer to question 4 is yes, then answer question 5. If you answered no, stop here, and answer no further questions on this claim.

5. Did Hidden Valley Lake Association, through Cindy Spears, intend to cause Wayne Clark emotional distress?

X Yes ____ No

If your answer to question 5 is yes, then answer question 6. If you answered no, stop here, and answer no further questions on this claim.

1 6. Did Wayne Clark suffer severe emotional distress?

2 X Yes ____ No

3 If your answer to question 6 is yes, then answer question 7. If you answered no, stop here,
4 and answer no further questions on this claim.

5 7. Was Hidden Valley Lake Association's conduct, through Cindy Spears, a
6 substantial factor in causing Wayne Clark's severe emotional distress?

7 X Yes ____ No

8 If your answer to question 7 is yes, then answer question 8. If you answered no, stop here,
9 and answer no further questions on this claim.

10 8. Did Wayne Clark prove by clear and convincing evidence that Hidden Valley Lake
11 Association, through Cindy Spears, acted with malice, oppression, or fraud?

12 X Yes ____ No

DAMAGES

If you answered yes to any of the following, then answer questions 1-4. If you answered no to all of the following, then skip questions 1-4 and proceed to question 5.

- Claim 1(a), Question 4
- Claim 1(b), Question 5
- Claim 1(c), Question 4
- Claim 2(a), both Question 5 and Question 6
- Claim 2(b), both Question 5 and Question 6
- Claim 2(c), Question 6
- Claim 3, Question 3
- Claim 4, Question 7

1. **Past Actual Damages (lost earnings)**: What amount, if any, do you award Wayne Clark?

\$ 271,250

2. **Past Noneconomic Damages**: What amount, if any, do you award Wayne Clark?

\$ 143,436

3. **Future Actual Damages (lost future earnings)**: What amount, if any, do you award Wayne Clark?

\$ 1,155,000

\$ 430,314

\$ 0

PUNITIVE DAMAGES—ENTITY DEFENDANT

If you answered yes to any of the following, then answer question 1. If you answered no to all of the following, then stop here, and have the foreperson sign and date this form.

- ☐ Claim 2(a), Question 7
- ☐ Claim 2(b), both Question 7 and Question 8
- ☐ Claim 2(c), Question 7
- ☐ Claim 4, Question 8

1. Was the conduct constituting malice, oppression, or fraud committed by one or more officers, directors, or managing agents of Hidden Valley Lake Association acting on behalf of Hidden Valley Lake Association?

☒ Yes ☐ No

If your answer to question 1 is yes, then skip questions 2-4 and answer question 5. If you answered no, then answer question 2.

2. Did an officer, a director, or a managing agent of Hidden Valley Lake Association have advance knowledge of the unfitness of Cindy Spears and employ her with a knowing disregard of the rights or safety of others?

☐ Yes ☒ No

If your answer to question 2 is yes, then skip questions 3-4 and answer question 5. If you answered no, then answer question 3.

3. Did an officer, a director, or a managing agent of Hidden Valley Lake Association authorize Cindy Spears's conduct?

☐ Yes ☒ No

If your answer to question 3 is yes, then skip question 4 and answer question 5. If you answered no, then answer question 4.

4. Did an officer, a director, or a managing agent of Hidden Valley Lake Association know of Cindy Spears's wrongful conduct and adopt or approve the conduct after it occurred?

☐ Yes ☒ No

1 If your answer to question 4 is yes, then answer question 5. If you answered no, then skip
2 question 5, and have the foreperson sign and date this form.

3 5. What amount of punitive damages, if any, do you award Wayne Clark?

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8 Dated:

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10 Foreperson

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United States District Court
Northern District of California